

condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Armenia, Austria, Azerbaijan, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Latvia, Lithuania, Moldova, Morocco, Portugal, Romania, the area of the Russian Federation west of the Ural Mountains, Slovakia, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Ukraine, and the area of the former Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

(b)(1) The following alternate procedure is approved by the Administrator as a condition of entry under permit for shipments of garlic (*Allium sativum*) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of *Brachymerus* spp. and *Dyspessa ulula* (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Protection and Quarantine Programs, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of *Brachymerus* spp. or *Dyspessa ulula* (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in paragraph (b)(1) of this section will be limited to the ports named in paragraph (a)(1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in paragraph (b)(1) of this section for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

[24 FR 10788, Dec. 29, 1959, as amended at 35 FR 18385, Dec. 3, 1970; 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 62 FR 50235, Sept. 25, 1997; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§ 319.56–2h Regulations governing the entry of grapes from Australia.

(a) *Importations allowed.* (1) Grapes from Australia may be imported into the United States only if they are inspected by an inspector of the Animal and Plant Health Inspection Service [APHIS], either in Australia or the United States, and treated with an authorized treatment under the supervision of an APHIS inspector for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the Queensland fruit fly (*Dacus tryoni*), and the light brown apple moth (*Epiphyas postvittana*).

(2) If an APHIS inspector finds evidence of any other insect pests for which a treatment authorized in part 305 of this chapter is available, the grapes will remain eligible for importation into the United States only if they are treated for the pests in Australia, or at their first port of arrival in the United States, under the supervision of an APHIS inspector.

(b) *Authorized treatments.* Authorized treatments are listed in part 305 of this chapter.

(c) *Trust Fund Agreement.* Grapes that undergo the fumigation phase of their

treatment in Australia may be imported into the United States only if the national plant protection service of Australia has entered into a trust fund agreement with APHIS. This agreement requires the national plant protection service of Australia to pay in advance all costs that APHIS estimates it will incur in providing services in Australia. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses, and other incidental expenses incurred by APHIS inspectors in performing these services. The agreement requires the national plant protection service of Australia to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the national plant protection service of Australia to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the grapes may be imported. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the national plant protection service of Australia, or held on account until needed.

(d) *Department not responsible for damage.* The treatment for grapes from Australia prescribed in part 305 of this chapter is judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[55 FR 25953, June 26, 1990, as amended at 67 FR 8465, Feb. 25, 2002; 70 FR 33325, June 7, 2005; 70 FR 40879, July 15, 2005]

§ 319.56-2i Administrative instructions prescribing treatments for mangoes from Central America, South America, and the West Indies.

(a) *Authorized treatments.* Treatment with an authorized treatment listed in part 305 of this chapter will meet the treatment requirements imposed under § 319.56-2 as a condition for the importation into the United States of mangoes from Central America, South America, and the West Indies.

(b) *Department not responsible for damage.* The treatments for mangoes prescribed in part 305 of this chapter are judged from experimental tests to be safe. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment.

[65 FR 37669, June 15, 2000, as amended at 67 FR 8466, Feb. 25, 2002; 70 FR 33325, June 7, 2005]

§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.⁴

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56-2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry—(1) Statistical sample inspection.* A biometrically designed statistical sample will be taken under § 319.56-6 by the inspector of the plant protection and quarantine programs from each shipment⁵ of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56-2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

⁴Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of part 305 of this chapter or the cold treatment requirements of § 319.56-2d.

⁵A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.